"The discussion of these treaties in open Senate will naturally awaken in the people a realizing sense of their responsibility, and also emphasize the fact that the issue involved is between them and the Senate. Although the Senate, theoretically, represents the States and not the people, I have no doubt that the thinking people of this country, rather than continue forever to carry the unnecessary burden of taxation they are now loaded down with in order to build battleships for junk piles at a cost of $40,000,000 each, including construction, operation, and maintenance during their life of only fifteen years, will make known to their Senators their views and their desires in respect to the ratification of these treaties, and thus prevent the work that has been accomplished by the head of our Government in the interest of international peace from going for naught."

## The Glory of Our Common Country.

**President S. C. Mitchell of the University of South Carolina.**

From an address given by Dr. Mitchell at the Conference of the Society for the Judicial Settlement of Disputes, Cincinnati, November 8.

Without stopping to enumerate the instances of arbitration such as "the Alabama claims," to which the United States was a party, or the number of arbitration treaties which our country has entered into with other nations, or the cases which we have carried to The Hague for settlement, it must be plain that the present arbitration treaties arranged by President Taft with England and France are a natural outcome of American policies since the foundation of our government. Between these three enlightened nations, such treaties make reason supreme, and express the faith of these countries in justice rather than violence.

These agreements mark an epoch in the history of the human race. They are the finest instance of the moral initiative of America. They are the crown of President Taft's achievements, and they are destined to be, if ratified, the glory of our common country. Our people believe in the principle of these treaties. And they are willing to accept the judgment of such lawyers as President Taft, Secretary Knox, and Senators Cullom, Burton, and Root upon the constitutionality of the treaties without amendment.

Highly favored in position with continental domain, swept by an ocean on either side and inheriting principles that make for the supremacy of justice and the maintenance of peace, we as a nation stand face to face with one of the greatest opportunities ever presented to mankind of advancing the well-being of our kind the world around.

God has said: "I will make thee a great nation." Shall we, accepting in full the spirit of peace and the supremacy of justice, rise at this moment to the height of duty and clasp hands across the sea with the mother land and the friend who stood by us in the hour of need?

It is well for the arbitration treaties in the Senate to be discussed fully from every point of view by the American people. Mr. Roosevelt has come forward to challenge the wisdom of the proposed treaties, and citing modern instances, such as the war in China and the war between Italy and Turkey, as proofs that treaties are mere paper where the big stick is not on hand.

His argument fails in several particulars. In the first place, misgovernment in China and Turkey has nothing to do with the question of arbitration among three so advanced nations as America, England, and France. The only proper inference from such cases as Turkey and China is that in making arbitration treaties we must be careful as to the character, stability, and justice of the governments with which we enter into agreements of this kind.

The instances of Turkey and China are no argument against arbitration, but a warning that arbitration must for the present be confined to a few nations supreme in intelligence and justice. This is especially true of all-inclusive arbitration treaties, such as are proposed between America, England, and France. To come within the circle of such an agreement, it is not merely necessary that a nation be strong, but also great in conscience and moral vision.

## The Peace Treaties with England and France.

*From the Independent of August 10.*

Last week, Thursday, a little after 3 p. m., in President Taft's study, two of these treaties were signed—those between England and the United States and France and the United States. The informality and simplicity of the ceremony added to its impressiveness. No speeches were made. Secretary Knox and Ambassador Bryce simply seated themselves on opposite sides of the table and affixed their signatures to the documents; that was all. Similarly the French Vice-Consul of New York and Secretary Knox signed the French treaty.

The treaties were sent to the Senate Friday and given to the public Saturday. They are substantially alike, and in no respect differ from the résumé given out by the State Department on May 17 and commented upon editorially in our issue of May 25.

There are only three points this week that we wish to consider in the treaties. They are the most novel and important.

First. "All" disputes that are "justiciable" and cannot be settled by diplomacy are to be submitted to arbitration. Thus the scope of our existing arbitration agreements is expanded by eliminating the exceptions of questions of "honor" and "vital interests." Still the word "justiciable" offers a loophole to escape the recourse to arbitration, because a nation may claim a dispute is not "justiciable." In that case a Commission of Inquiry will decide whether the dispute is "justiciable" or not. If it finds it is, the dispute must go to arbitration. If not, there may be war. Thus it will be seen that the treaties do not absolutely provide ways to settle "all" differences by arbitration, as President Taft said he was willing to do. Still it is almost inconceivable that a Commission of Inquiry would allow a difference to go to the point of war, especially as either nation could cause its findings to be delayed a year in order to let heated public opinion cool off and diplomacy come into action. At any rate, the scope of the treaties is so much broader than anything now existing between world

powers that they constitute the greatest forward step ever made in the history of peace and arbitration.

Second. The device of the Commission of Inquiry is probably destined to play a more important rôle in these treaties than even their "all-inclusiveness." Here at last we have the international analogue of the "jury of presentment" or "grand jury" in private law. These commissions will be watched with intense interest by all students of comparative law.

Third. The "special agreement" in each case to arbitrate shall be made on the part of the United States by the President "by and with the consent of the Senate thereof." This means that the Senate will be in honor bound to refer all justiciable disputes to arbitration, but that it will be consulted in framing the preliminary "special agreement" defining the dispute and the scope of the proposed arbitration. Of course the Senate, under this somewhat elastic provision, might so emasculate the agreement as to prevent its acceptance by the opposing power; still such a contingency is so unlikely as to be a practical impossibility. Whether the Senate, however, will take the view that this whole clause signs away its constitutional prerogatives remains to be seen.

It is almost inconceivable, however, that the Senate will refuse to ratify these two great treaties. The President and Secretary Knox believe that all Senatorial prerogatives are fully conserved, and there are no better constitutional lawyers in the Upper House.

Still, now is the critical time. Any political or civic organization, any newspaper or individual that has influence with the Senate or with any Senator should exert it now.

If these treaties fail, the cause of universal peace will be set back a generation. Their importance cannot be overestimated.

Unlimited arbitration is the beginning of the end of war. As surely as daylight follows dawn, these treaties, once ratified, will be followed by similar treaties with other nations. Thus the time is likely soon to come when a few of the great nations, being bound to one another by indissoluble chains of peace, will negotiate a general treaty of unlimited arbitration among themselves. Thus will be formed the long-desired League of Peace, and any genuine League of Peace is bound to grow until all the nations of the world enter its prosperous and concordant circle. First, unlimited arbitration treaties with England and France; second, a League of Peace; third, the Federation of the World.

In conclusion, let us give to President Taft all honor for this great moral victory in world statesmanship. It should be a source of pride to all our people that the man who presides over a confederation of forty-six sovereign States—the greatest peace society known to history—should be also the leader of the forty-six sovereign civilized nations in their progress toward peace.

If peace hath her victories no less renowned than war, her greatest victory during the present century, if not during the human era, was all but achieved last Thursday. And when these treaties are finally ratified by our Senate—they are already ratified by the peoples of Britain, France, and America—William Howard Taft will have done more than any other statesman of the world to hasten that day, sure to come, when, as Victor Hugo prophesied, "the only battlefield will be the market opening to commerce and the mind to new ideas."

## To the Senate.

*From the Independent of August 17.*

GENTLEMEN: The President of the United States, acting under the Constitution, has submitted to you for ratification two treaties of peace and friendship with Great Britain and France. These treaties are for the unlimited arbitration of all disputes, even those supposed to involve "national honor," and are generally held to be the farthest steps yet taken in the history of the world toward the goal of universal peace.

It is reported from Washington that you will not ratify these treaties at the present session, that you fear that your rights as an integral part of the treaty-making branch of the Government have been invaded. Your Committee on Foreign Relations has even made the great blunder of reporting the treaties back to you emasculated of a most important provision—the provision which enables the commission of inquiry to send a dispute to arbitration.

It is, of course, your sworn duty to examine the treaties with all care to see that the interests of the people of the United States, as well as your own prerogatives, are properly safeguarded. There can be no objection to your taking all the time you need to make the minutest scrutiny.

But we warn you that the country is in no mood to stand any unnecessary quibblings over Senatorial precedences. You will be held individually and collectively responsible if you attempt to put your dignity above the cause of the world's peace. Do not forget that since you defeated the Olney-Pauncefote treaty of 1897 and the Hay-Pauncefote treaty of 1903 a well-nigh universal sentiment for peace and arbitration has grown up in this country and throughout the world. The churches, the chambers of commerce and boards of trade, the labor unions, the universities, and indeed all interests and classes in the community, are now a unit in this noble and irresistible movement. Even the great mass of the plain people are at last coming to realize who are the ones who undergo the sufferings of war and pay the taxes of armed peace.

We have the honor to present to you this week the views of Prof. John B. Moore, generally considered the greatest international lawyer in America. He thinks the treaties should be ratified. And President Taft himself, in his speech last week at Mountain Lake Park, answered in brief all constitutional objections that you can reasonably make. Said he:

"By this treaty, if it is ratified, the Executive and Senate representing the United States agree to settle all their differences, as described in the treaty, by arbitration or through a commission.

"Should the treaty be ratified, the Senate, exactly as the Executive, will be in honor bound by its obligations in good faith to perform the offices which the main treaty provides shall be performed on the side of the United States, and then to abide the result, and to acquiesce, or, in so far as may be, perform and execute the judgment of the tribunal.

"What is there to prevent the Senate from uniting with the Executive in agreeing to settle future controversies of a given description in a treaty by the judgment of an impartial tribunal, and to submit to that tribunal not only the question how the issue ought to be decided,